

AMENDED IN SENATE MAY 13, 2003
AMENDED IN SENATE MARCH 26, 2003
AMENDED IN SENATE MARCH 11, 2003

SENATE BILL

No. 15

**Introduced by Senator Alpert
(Principal coauthor: Senator Florez)**

December 2, 2002

An act to amend Sections 17073.15, 17073.20, 17074.10, 17077.42, 17078.52, 17078.54, 17078.58, and 17078.62 of, and to repeal Section 17078.50 of, the Education Code, relating to education facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as amended, Alpert. School facilities.

Existing law provides that a school district is eligible to receive an apportionment for modernization of permanent school buildings over 25 years old or portable classrooms that are at least 20 years old and sets forth the manner in which the amount of funding a school district is eligible for is calculated.

Existing law conditions eligibility for a joint-use grant on, among other things, demonstration by a school district that it has a joint-use partner that has agreed to provide matching funds for 50% of the eligible costs, as specified.

This bill would allow an additional apportionment to be made for the modernization of permanent school facilities every 25 years following the date of the previous apportionment and, in the case of portable classrooms, every 20 years after the previous apportionment is made.

This bill would require the joint-use agreement to specify the contribution to be made by the school district and the joint-use partner

toward the local share, ~~requires~~ *and would require* the contribution of the joint-use partner to be no less than 25% of the eligible *project* costs; ~~and requires the joint-use partner and the school district to agree upon the time period for the contribution, as specified.~~

Existing law establishes a pilot program to determine the optimum method for providing school facilities funding for charter schools.

This bill would delete the reference to those provisions as being a pilot program.

Existing law provides for submission to the voters of the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 which would, in part, authorize the issuance of bonds for the purpose of funding K-12 school facilities, including, but not limited to, charter school facilities pursuant to the Leroy F. Greene School Facilities Act of 1998. Existing law also sets forth the manner of funding charter school facilities under the Kindergarten-University Public Education Facilities Bond Act of 2002 including, among other provisions, that the State Allocation Board and the California School Finance Authority provide funding for charter school facilities pursuant to that act.

This bill would set forth the manner of funding charter school facilities under the Kindergarten-University Public Education Facilities Bond Act of 2004 including, among other provisions, the authority for the State Allocation Board and the California School Finance Authority to provide funding for charter school facilities projects.

The bill would make technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17073.15 of the Education Code is
- 2 amended to read:
- 3 17073.15. A school district is eligible to receive an
- 4 apportionment for the modernization of a permanent school
- 5 building that is more than 25 years old or a portable classroom that
- 6 is at least 20 years old. A school district is eligible to receive an
- 7 additional apportionment for the modernization of a permanent
- 8 school building every 25 years after the date of the previous



1 apportionment or a portable classroom every 20 years after the
2 previous apportionment.

3 SEC. 2. Section 17073.20 of the Education Code is amended
4 to read:

5 17073.20. Funding may be approved for the modernization of
6 any permanent school building that is more than 25 years old, or
7 any portable classroom that is more than 20 years old, as described
8 in Section 17071.30.

9 SEC. 3. Section 17074.10 of the Education Code is amended
10 to read:

11 17074.10. (a) The board shall determine the total funding
12 eligibility of a school district for modernization funding by
13 multiplying the following amounts by each pupil of that grade
14 level housed in permanent school buildings that satisfy the
15 requirements of Section 17073.15:

16 (1) Two thousand two hundred forty-six dollars (\$2,246) for
17 each elementary pupil.

18 (2) Two thousand three hundred seventy-six dollars (\$2,376)
19 for each middle school pupil.

20 (3) Three thousand one hundred ten dollars (\$3,110) for each
21 high school pupil.

22 (b) The board shall annually adjust the factors set forth in
23 subdivision (a) according to the adjustment for inflation set forth
24 in the statewide cost index for class B construction, as determined
25 by the board.

26 (c) The board may adopt regulations to be effective until July
27 1, 2000, that adjust the amounts identified in this section for
28 qualifying individuals with exceptional needs, as defined in
29 Section 56026. The regulations shall be amended after July 1,
30 2000, in consideration of the recommendations provided pursuant
31 to Section 17072.15.

32 (d) It is the intent of the Legislature that the amounts provided
33 pursuant to this article for school modernization do not include
34 funding for administrative and overhead costs.

35 (e) For a school district having an enrollment of 2,500 or less
36 for the prior fiscal year, the board may approve a supplemental
37 apportionment of up to two thousand five hundred dollars (\$2,500)
38 for any modernization project assistance. The amount of the
39 supplemental apportionment shall be adjusted in 2001 and every

1 year thereafter by an amount equal to the percentage adjustment
2 for class B construction.

3 SEC. 4. Section 17077.42 of the Education Code is amended
4 to read:

5 17077.42. In order to be approved for a grant under this
6 article, the applicant district shall demonstrate that it has complied
7 with all of the following:

8 (a) The school district has entered into a joint-use agreement
9 with a governmental agency, public community college, public
10 college or public university, or a nonprofit organization approved
11 by the board.

12 (b) The joint-use agreement specifies the method of sharing
13 capital and operating costs, specifies relative responsibilities for
14 the operation and staffing of the facility, and specifies the manner
15 in which the safety of the pupils will be ensured.

16 (c) The joint-use agreement specifies the amount of the
17 contribution to be made by the school district and the joint-use
18 partner toward the 50 percent local share of eligible *project* costs.
19 The contribution made by a joint-use partner shall be no less than
20 25 percent of eligible costs and may be made within a period of
21 time to be agreed upon by the school district and the joint-use
22 partner, but not to exceed 20 years. *project costs*.

23 (d) The school district demonstrates that the facility will be
24 used to the maximum extent possible for both school and
25 community purposes, or both school and higher education
26 purposes, as applicable.

27 (e) (1) The project application qualifies for funding under
28 paragraph (1) or (2) of subdivision (b) of Section 17077.40 and the
29 school district has received all approvals necessary for
30 apportionment under this chapter.

31 (2) The project qualifies for funding under paragraph (3) of
32 subdivision (b) of Section 17077.40 and the school district has
33 completed preliminary plans for the project and has received State
34 Department of Education approval of the plans.

35 SEC. 5. Section 17078.50 of the Education Code is repealed.

36 SEC. 6. Section 17078.52 of the Education Code is amended
37 to read:

38 17078.52. (a) There is hereby established the Charter
39 Schools Facilities Program to provide funding to qualifying

1 entities for the purpose of establishing school facilities for charter
2 school pupils.

3 (b) The 2002 Charter School Facilities Account is hereby
4 established within the 2002 State School Facilities Fund
5 established pursuant to subdivision (b) of Section 17070.40. The
6 proceeds of bonds as set forth in subparagraph (A) of paragraph (1)
7 of subdivision (a) of Section 100620 shall be deposited into the
8 2002 Charter School Facilities Account for the purposes of this
9 article. Notwithstanding Section 13340 of the Government Code,
10 funds deposited into the account are hereby continuously
11 appropriated for the purposes of this article.

12 (c) The 2004 Charter School Facilities Account is hereby
13 established within the 2004 State School Facilities Fund
14 established pursuant to subdivision (c) of Section 17070.40. The
15 proceeds of bonds as set forth in subparagraph (A) of paragraph (1)
16 of subdivision (a) of Section 100820, if approved by the voters,
17 shall be deposited into the 2004 Charter School Facilities Account
18 for the purposes of this article. Notwithstanding Section 13340 of
19 the Government Code, funds deposited into the account are hereby
20 continuously appropriated for the purposes of this article.

21 (d) As used in this article, the following terms have the
22 following meanings:

23 (1) “Authority” means the California School Finance
24 Authority established pursuant to Section 17172.

25 (2) “Account” means the 2002 Charter School Facilities
26 Account established within the 2002 State School Facilities Fund
27 pursuant to subdivision (b) or the 2004 Charter School Facilities
28 Account established within the 2004 State School Facilities Fund
29 pursuant to subdivision (c).

30 (3) “Preliminary apportionment” means an apportionment
31 made for eligible applicants under this article in advance of full
32 compliance with all of the application requirements otherwise
33 required for an apportionment pursuant to this chapter. The
34 process for making preliminary apportionments under this article
35 shall be substantially identical to the process established for
36 critically overcrowded schools pursuant to Sections 17078.22 to
37 17078.30, inclusive.

38 (4) “Financially sound” means a charter school that has
39 demonstrated, over a period of time determined by the authority,
40 but not less than 24 months immediately preceding the submission

1 of the application, that it is a financially capable concern, as
2 measured by criteria established by the authority.

3 (e) The State Allocation Board shall, from time to time,
4 transfer funds within the account to the California School Finance
5 Authority Fund for the purposes of this article pursuant to the
6 request of the authority as set forth in this article.

7 SEC. 7. Section 17078.54 of the Education Code is amended
8 to read:

9 17078.54. (a) An eligible project under this article shall
10 include funding, as permitted by this chapter, for new construction
11 of a school facility for charter school pupils, as set forth in this
12 article. A new construction project may include, but is not limited
13 to, the cost of purchasing and retrofitting an existing building, but
14 may not exceed the amounts set forth in subdivision (b).

15 (b) The maximum amount of the funding pursuant to this
16 article shall be determined by calculating the charter school's
17 per-pupil grant amount plus other allowable costs as set forth in
18 this chapter. Funding shall be provided by the authority for new
19 facility construction as set forth in Section 17078.58.

20 (c) To be funded under this article, a project shall comply with
21 all of the following:

22 (1) (A) It shall meet all the requirements regarding public
23 school construction, plan approvals, toxic substance review, site
24 selection, and site approval, as would any noncharter school
25 project of a school district under this chapter, including, but not
26 limited to, regulations adopted by the State Architect pursuant to
27 Section 17280.5 relating to the retrofitting of existing buildings,
28 as applicable.

29 (B) Notwithstanding any provision of law to the contrary,
30 including, but not limited to subparagraph (A), the board, after
31 consulting with the relevant regulatory agencies, shall, to the
32 extent feasible, adopt regulations establishing a process for
33 projects to be subject to a streamlined method for obtaining
34 regulatory approvals for all requirements described in
35 subparagraph (A), except for the requirements of the Field Act as
36 defined in Section 17281 which shall be complied with in the same
37 manner as any other project under this chapter.

38 (2) It shall fund only new construction to be physically located
39 within the geographical jurisdiction of a school district that has
40 demonstrated construction grant eligibility as determined

1 pursuant to Section 17072.10, and subdivision (e) of Section
2 17078.53, for at least the number of pupils set forth in the per-pupil
3 grant request contained in the application.

4 (d) Facilities funded pursuant to this article shall have a 50
5 percent local share matching obligation that may be paid by the
6 applicant through lease payments in lieu of the matching share, or
7 as otherwise set forth in this article, including, but not limited to,
8 Section 17078.58.

9 (e) The authority may charge its administrative costs against
10 the respective 2002 or 2004 Charter School Facilities Account,
11 which shall be subject to the approval of the Department of
12 Finance and which may not exceed 2.5 percent of the account.

13 SEC. 8. Section 17078.58 of the Education Code is amended
14 to read:

15 17078.58. (a) Funding granted pursuant to this article may
16 not exceed 100 percent of the total allowable project costs as
17 determined by calculating double the per-pupil grant eligibility as
18 set forth in Section 17072.10, and subdivision (e) of Section
19 17078.53, plus 100 percent of all other allowable construction
20 project costs, as appropriate to the project, that would otherwise
21 be available to school district projects as set forth in this chapter.

22 (b) The local share equivalent shall be collected in the form of
23 lease payments or otherwise as set forth in this article.

24 (c) Lease payments in lieu of local share payments, and any
25 other local share payments made pursuant to this article, shall be
26 made to the State Allocation Board for deposit into the respective
27 2002 or 2004 Charter School Facilities Account. Funds deposited
28 into the account pursuant to this section may be used by the board
29 only for a purpose related to charter school facilities pursuant to
30 this article.

31 SEC. 9. Section 17078.62 of the Education Code is amended
32 to read:

33 17078.62. (a) As a first priority, the existing charter school
34 shall be permitted to continue to use the facility until it is no longer
35 needed by the charter school for charter school purposes.

36 (b) If the charter school occupying a facility funded pursuant
37 to this article ceases to utilize the facility for a charter school
38 purpose, all of the following apply:

39 (1) If the charter school is no longer using the facility because
40 the school district in which the charter school is located has

1 revoked or declined to renew the charter, the school district, as a
2 necessary component of the first priority established in
3 subdivision (a), may not immediately occupy the facility, but shall
4 allow a reasonable time, not to exceed six months, for completion
5 of the review process contemplated in Section 47607 or 47607.5.

6 (2) As a second priority, any qualifying successor charter
7 school shall be permitted to meet its facility needs by occupying
8 the facility on equal terms as the prior charter school occupant.

9 (3) As a third priority, the school district in which the charter
10 school is physically located may notify the authority and take
11 possession of the facility and make the facility available for
12 continued use as a public school facility.

13 (4) If the school district in which the charter school is
14 physically located elects to take possession of a facility pursuant
15 to paragraph (3), it shall pay the balance of the unpaid local
16 matching share or demonstrate that it is willing and able to
17 continue to make the lease payments in lieu of the local matching
18 share on the same terms. However, the payments shall be reduced
19 or eliminated, as appropriate, if the school district complies with
20 all of the following:

21 (A) It demonstrates that it would have been eligible for
22 hardship funding under Article 8 (commencing with Section
23 17075.10) at the time that the application for funding the facility
24 under this article was originally submitted.

25 (B) It certifies to the board that it will utilize the facilities for
26 public school purposes for a period of at least five years from the
27 date that it occupies the facility.

28 (5) If the school district declines to take possession pursuant to
29 paragraph (3), or if the facility is subsequently no longer needed
30 for public school purposes, the school district shall dispose of the
31 facilities in a manner otherwise applicable to the disposal of
32 surplus public schoolsites. Any unpaid local matching share shall
33 be paid from the net proceeds, if any, of the disposition and shall
34 be deposited into the respective 2002 or 2004 Charter School
35 Facilities Account. To the extent that funds remain from the
36 proceeds of the disposition after repayment of the local matching
37 share, any security interest granted to a person or entity pursuant
38 to subparagraph (B) of paragraph (3) of subdivision (a) of Section
39 17078.57 shall be satisfied.



1 (6) If the lease payments in lieu of the local matching share are
2 fully paid, the school district shall continue to hold title to the
3 facility, in trust, for the benefit of the state public school system.
4 The school district shall permit continued use of the facility for
5 charter school purposes as long as the facility is needed for those
6 purposes.

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